

such governmental unit that is property of the estate and that arose out of the same transaction or occurrence out of which such governmental unit's claim arose.

“(b) There shall be offset against an allowed claim or interest of a governmental unit any claim against such governmental unit that is property of the estate.

“(c) Except as provided in subsections (a) and (b) of this section and notwithstanding any assertion of sovereign immunity—

“(1) a provision of this title that contains ‘creditor’, ‘entity’, or ‘governmental unit’ applies to governmental units; and

“(2) a determination by the court of an issue arising under such a provision binds governmental units.”

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-394 effective Oct. 22, 1994, and applicable with respect to cases commenced under this title before, on, and after Oct. 22, 1994, see section 702(a), (b)(2)(B) of Pub. L. 103-394, set out as a note under section 101 of this title.

§ 107. Public access to papers

(a) Except as provided in subsection (b) of this section, a paper filed in a case under this title and the dockets of a bankruptcy court are public records and open to examination by an entity at reasonable times without charge.

(b) On request of a party in interest, the bankruptcy court shall, and on the bankruptcy court's own motion, the bankruptcy court may—

(1) protect an entity with respect to a trade secret or confidential research, development, or commercial information; or

(2) protect a person with respect to scandalous or defamatory matter contained in a paper filed in a case under this title.

(Pub. L. 95-598, Nov. 6, 1978, 92 Stat. 2556.)

HISTORICAL AND REVISION NOTES

SENATE REPORT NO. 95-989

Subsection (a) of this section makes all papers filed in a bankruptcy case and the dockets of the bankruptcy court public and open to examination at reasonable times without charge. “Docket” includes the claims docket, the proceedings docket, and all papers filed in a case.

Subsection (b) permits the court, on its own motion, and requires the court, on the request of a party in interest, to protect trade secrets, confidential research, development, or commercial information, and to protect persons against scandalous or defamatory matter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 106 of this title.

§ 108. Extension of time

(a) If applicable nonbankruptcy law, an order entered in a nonbankruptcy proceeding, or an agreement fixes a period within which the debtor may commence an action, and such period has not expired before the date of the filing of the petition, the trustee may commence such action only before the later of—

(1) the end of such period, including any suspension of such period occurring on or after the commencement of the case; or

(2) two years after the order for relief.

(b) Except as provided in subsection (a) of this section, if applicable nonbankruptcy law, an

order entered in a nonbankruptcy proceeding, or an agreement fixes a period within which the debtor or an individual protected under section 1201 or 1301 of this title may file any pleading, demand, notice, or proof of claim or loss, cure a default, or perform any other similar act, and such period has not expired before the date of the filing of the petition, the trustee may only file, cure, or perform, as the case may be, before the later of—

(1) the end of such period, including any suspension of such period occurring on or after the commencement of the case; or

(2) 60 days after the order for relief.

(c) Except as provided in section 524 of this title, if applicable nonbankruptcy law, an order entered in a nonbankruptcy proceeding, or an agreement fixes a period for commencing or continuing a civil action in a court other than a bankruptcy court on a claim against the debtor, or against an individual with respect to which such individual is protected under section 1201 or 1301 of this title, and such period has not expired before the date of the filing of the petition, then such period does not expire until the later of—

(1) the end of such period, including any suspension of such period occurring on or after the commencement of the case; or

(2) 30 days after notice of the termination or expiration of the stay under section 362, 922, 1201, or 1301 of this title, as the case may be, with respect to such claim.

(Pub. L. 95-598, Nov. 6, 1978, 92 Stat. 2556; Pub. L. 98-353, title III, §424, July 10, 1984, 98 Stat. 369; Pub. L. 99-554, title II, §257(b), Oct. 27, 1986, 100 Stat. 3114.)

HISTORICAL AND REVISION NOTES

LEGISLATIVE STATEMENTS

Extension of time: The House amendment adopts section 108(c)(1) of the Senate amendment which expressly includes any special suspensions of statutes of limitation periods on collection outside bankruptcy when assets are under the authority of a court. For example, section 6503(b) of the Internal Revenue Code [title 26] suspends collection of tax liabilities while the debtor's assets are in the control or custody of a court, and for 6 months thereafter. By adopting the language of the Senate amendment, the House amendment insures not only that the period for collection of the taxes outside bankruptcy will not expire during the title 11 proceedings, but also that such period will not expire until at least 6 months thereafter, which is the minimum suspension period provided by the Internal Revenue Code [title 26].

SENATE REPORT NO. 95-989

Subsections (a) and (b), derived from Bankruptcy Act section 11 [section 29 of former title 11], permit the trustee, when he steps into the shoes of the debtor, an extension of time for filing an action or doing some other act that is required to preserve the debtor's rights. Subsection (a) extends any statute of limitation for commencing or continuing an action by the debtor for two years after the date of the order for relief, unless it would expire later. Subsection (b) gives the trustee 60 days to take other actions not covered under subsection (a), such as filing a pleading, demand, notice, or proof of claim or loss (such as an insurance claim), unless the period for doing the relevant act expires later than 60 days after the date of the order for relief.

Subsection (c) extends the statute of limitations for creditors. Thus, if a creditor is stayed from commencing or continuing an action against the debtor because of the bankruptcy case, then the creditor is permitted an additional 30 days after notice of the event by which the stay is terminated, whether that event be relief from the automatic stay under proposed 11 U.S.C. 362 or 1301, the closing of the bankruptcy case (which terminates the stay), or the exception from discharge of the debts on which the creditor claims.

In the case of Federal tax liabilities, the Internal Revenue Code [title 26] suspends the statute of limitations on a tax liability of a taxpayer from running while his assets are in the control or custody of a court and for 6 months thereafter (sec. 6503(b) of the Code [title 26]). The amendment applies this rule in a title 11 proceeding. Accordingly, the statute of limitations on collection of a nondischargeable Federal tax liability of a debtor will resume running after 6 months following the end of the period during which the debtor's assets are in the control or custody of the bankruptcy court. This rule will provide the Internal Revenue Service adequate time to collect nondischargeable taxes following the end of the title 11 proceedings.

AMENDMENTS

1986—Subsec. (b). Pub. L. 99-554, §257(b)(1), inserted reference to section 1201 of this title.

Subsec. (c). Pub. L. 99-554, §257(b)(2)(A), inserted reference to section 1201 of this title in provisions preceding par. (1).

Subsec. (c)(2). Pub. L. 99-554, §257(b)(2)(B), which directed the amendment of subsec. (c) by inserting “1201,” after “722,” was executed to par. (2) by inserting “1201,” after “922,” as the probable intent of Congress.

1984—Subsec. (a). Pub. L. 98-353, §424(b), inserted “nonbankruptcy” after “applicable” and “entered in a” in provisions preceding par. (1).

Subsec. (a)(1). Pub. L. 98-353, §424(a), substituted “or” for “and” after the semicolon.

Subsec. (b). Pub. L. 98-353, §424(b), inserted “nonbankruptcy” after “applicable” and “entered in a” in provisions preceding par. (1).

Subsec. (b)(1). Pub. L. 98-353, §424(a), substituted “or” for “and” after the semicolon.

Subsec. (c). Pub. L. 98-353, §424(b), inserted “nonbankruptcy” after “applicable” and “entered in a” in provisions preceding par. (1).

Subsec. (c)(1). Pub. L. 98-353, §424(a), substituted “or” for “and” after the semicolon.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-554 effective 30 days after Oct. 27, 1986, but not applicable to cases commenced under this title before that date, see section 302(a), (c)(1) of Pub. L. 99-554, set out as a note under section 581 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-353 effective with respect to cases filed 90 days after July 10, 1984, see section 552(a) of Pub. L. 98-353, set out as a note under section 101 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 106 of this title.

§ 109. Who may be a debtor

(a) Notwithstanding any other provision of this section, only a person that resides or has a domicile, a place of business, or property in the United States, or a municipality, may be a debtor under this title.

(b) A person may be a debtor under chapter 7 of this title only if such person is not—

(1) a railroad;

(2) a domestic insurance company, bank, savings bank, cooperative bank, savings and

loan association, building and loan association, homestead association, a small business investment company licensed by the Small Business Administration under subsection (c) or (d)¹ of section 301 of the Small Business Investment Act of 1958, credit union, or industrial bank or similar institution which is an insured bank as defined in section 3(h) of the Federal Deposit Insurance Act; or

(3) a foreign insurance company, bank, savings bank, cooperative bank, savings and loan association, building and loan association, homestead association, or credit union, engaged in such business in the United States.

(c) An entity may be a debtor under chapter 9 of this title if and only if such entity—

(1) is a municipality;

(2) is specifically authorized, in its capacity as a municipality or by name, to be a debtor under such chapter by State law, or by a governmental officer or organization empowered by State law to authorize such entity to be a debtor under such chapter;

(3) is insolvent;

(4) desires to effect a plan to adjust such debts; and

(5)(A) has obtained the agreement of creditors holding at least a majority in amount of the claims of each class that such entity intends to impair under a plan in a case under such chapter;

(B) has negotiated in good faith with creditors and has failed to obtain the agreement of creditors holding at least a majority in amount of the claims of each class that such entity intends to impair under a plan in a case under such chapter;

(C) is unable to negotiate with creditors because such negotiation is impracticable; or

(D) reasonably believes that a creditor may attempt to obtain a transfer that is avoidable under section 547 of this title.

(d) Only a person that may be a debtor under chapter 7 of this title, except a stockbroker or a commodity broker, and a railroad may be a debtor under chapter 11 of this title.

(e) Only an individual with regular income that owes, on the date of the filing of the petition, noncontingent, liquidated, unsecured debts of less than \$250,000 and noncontingent, liquidated, secured debts of less than \$750,000, or an individual with regular income and such individual's spouse, except a stockbroker or a commodity broker, that owe, on the date of the filing of the petition, noncontingent, liquidated, unsecured debts that aggregate less than \$250,000 and noncontingent, liquidated, secured debts of less than \$750,000 may be a debtor under chapter 13 of this title.

(f) Only a family farmer with regular annual income may be a debtor under chapter 12 of this title.

(g) Notwithstanding any other provision of this section, no individual or family farmer may be a debtor under this title who has been a debtor in a case pending under this title at any time in the preceding 180 days if—

(1) the case was dismissed by the court for willful failure of the debtor to abide by orders

¹ See References in Text note below.